

AN ACT concerning insurance.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

ARTICLE 5.

ILLINOIS HEALTH BENEFITS EXCHANGE

Section 5-1. Short title. This Article may be cited as the Illinois Health Benefits Exchange Law.

Section 5-3. Legislative intent. The General Assembly finds the health benefits exchanges authorized by the federal Patient Protection and Affordable Care Act represent one of a number of ways in which the State can address coverage gaps and provide individual consumers and small employers access to greater coverage options. The General Assembly also finds that the State is best positioned to implement an exchange that is sensitive to the coverage gaps and market landscape unique to this State.

The purpose of this Law is to ensure that the State is making sufficient progress towards establishing an exchange within the guidelines outlined by the federal law and to protect Illinoisans from undue federal regulation. Although the federal law imposes a number of core requirements on state-level exchanges, the State has significant flexibility

in the design and operation of a State exchange that make it prudent for the State to carefully analyze, plan, and prepare for the exchange. The General Assembly finds that in order for the State to craft a tenable exchange that meets the fundamental goals outlined by the Patient Protection and Affordable Care Act of expanding access to affordable coverage and improving the quality of care, the implementation process should (1) provide for broad stakeholder representation; (2) foster a robust and competitive marketplace, both inside and outside of the exchange; and (3) provide for a broad-based approach to the fiscal solvency of the exchange.

Section 5-5. State health benefits exchange. It is declared that this State, beginning October 1, 2013, in accordance with Section 1311 of the federal Patient Protection and Affordable Care Act, shall establish a State health benefits exchange to be known as the Illinois Health Benefits Exchange in order to help individuals and small employers with no more than 50 employees shop for, select, and enroll in qualified, affordable private health plans that fit their needs at competitive prices. The Exchange shall separate coverage pools for individuals and small employers and shall supplement and not supplant any existing private health insurance market for individuals and small employers.

Section 5-10. Exchange functions.

(a) The Illinois Health Benefits Exchange shall meet the core functions identified by Section 1311 of the Patient Protection and Affordable Care Act and subsequent federal guidance and regulations.

(b) In order to meet the deadline of October 1, 2013 established by federal law to have operational a State exchange, the Department of Insurance and the Commission on Governmental Forecasting and Accountability is authorized to apply for, accept, receive, and use as appropriate for and on behalf of the State any grant money provided by the federal government and to share federal grant funding with, give support to, and coordinate with other agencies of the State and federal government or third parties as determined by the Governor.

Section 5-15. Illinois Health Benefits Exchange Legislative Study Committee.

(a) There is created an Illinois Health Benefits Exchange Legislative Study Committee to conduct a study regarding State implementation and establishment of the Illinois Health Benefits Exchange.

(b) Members of the Legislative Study Committee shall be appointed as follows: 3 members of the Senate shall be appointed by the President of the Senate; 3 members of the Senate shall be appointed by the Minority Leader of the Senate; 3 members of the House of Representatives shall be appointed by

the Speaker of the House of Representatives; and 3 members of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives. Each legislative leader shall select one member to serve as co-chair of the committee.

(c) Members of the Legislative Study Committee shall be appointed within 30 days after the effective date of this Law. The co-chairs shall convene the first meeting of the committee no later than 45 days after the effective date of this Law.

Section 5-20. Committee study. No later than September 30, 2011, the Committee shall report all findings concerning the implementation and establishment of the Illinois Health Benefits Exchange to the executive and legislative branches, including, but not limited to, (1) the governance and structure of the Exchange, (2) financial sustainability of the Exchange, and (3) stakeholder engagement, including an ongoing role for the Legislative Study Committee or other legislative oversight of the Exchange. The Committee shall report its findings with regard to (A) the operating model of the Exchange, (B) the size of the employers to be offered coverage through the Exchange, (C) coverage pools for individuals and businesses within the Exchange, and (D) the development of standards for the coverage of full-time and part-time employees and their dependents. The Committee study shall also include recommendations concerning prospective action on behalf of the General Assembly as it relates to the establishment of the Exchange in 2011, 2012,

2013, and 2014.

Section 5-25. Federal action. This Law shall be null and void if Congress and the President take action to repeal or replace, or both, Section 1311 of the Affordable Care Act.

#### ARTICLE 10.

##### HEALTH SAVINGS ACCOUNT

Section 10-1. Short title. This Article may be cited as the State Employee Health Savings Account Law.

Section 10-5. Definitions. As used in this Law:

(a) "Deductible" means the total deductible of a high deductible health plan for an eligible individual and all the dependents of that eligible individual for a calendar year.

(b) "Dependent" means an eligible individual's spouse or child, as defined in Section 152 of the Internal Revenue Code of 1986. "Dependent" includes a party to a civil union, as defined under Section 10 of the Illinois Religious Freedom Protection and Civil Union Act.

(c) "Eligible individual" means an employee, as defined in Section 3 of the State Employees Group Insurance Act of 1971, who contributes to health savings accounts on the employees' behalf, who:

(1) is covered by a high deductible health plan

individually or with dependents; and

(2) is not covered under any health plan that is not a high deductible health plan, except for:

(i) coverage for accidents;

(ii) workers' compensation insurance;

(iii) insurance for a specified disease or illness;

(iv) insurance paying a fixed amount per day per hospitalization; and

(v) tort liabilities; and

(3) establishes a health savings account or on whose behalf the health savings account is established.

(d) "Employer" means a State agency, department, or other entity that employs an eligible individual.

(e) "Health savings account" or "account" means a trust or custodial account established under a State program exclusively to pay the qualified medical expenses of an eligible individual, or his or her dependents, that meets all of the following requirements:

(1) Except in the case of a rollover contribution, no contribution may be accepted:

(A) unless it is in cash; or

(B) to the extent that the contribution, when added to the previous contributions to the Account for the calendar year, exceeds the lesser of (i) 100% of the eligible individual's deductible or (ii) the

contribution level set for that year by the Internal Revenue Service.

(2) The trustee or custodian is a bank, an insurance company, or another person approved by the Director of Insurance.

(3) No part of the trust assets shall be invested in life insurance contracts.

(4) The assets of the account shall not be commingled with other property except as allowed for under Individual Retirement Accounts.

(5) Eligible individual's interest in the account is nonforfeitable.

(f) "Health savings account program" or "program" means a program that includes all of the following:

(1) The purchase by an eligible individual or by an employer of a high deductible health plan.

(2) The contribution into a health savings account by an eligible individual or on behalf of an employee or by his or her employer. The total annual contribution may not exceed the amount of the deductible or the amounts listed in sub-item (B) of item (1) of subsection (f) of this Section.

(g) "High deductible" means:

(1) In the case of self-only coverage, an annual deductible that is not less than the level set by the Internal Revenue Service and that, when added to the other

annual out-of-pocket expenses required to be paid under the plan for covered benefits, does not exceed \$5,000; and

(2) In the case of family coverage, an annual deductible of not less than the level set by the Internal Revenue Service and that, when added to the other annual out-of-pocket expenses required to be paid under the plan for covered benefits, does not exceed \$10,000.

A plan shall not fail to be treated as a high deductible plan by reason of a failure to have a deductible for preventive care or, in the case of network plans, for having out-of-pocket expenses that exceed these limits on an annual deductible for services that are provided outside the network.

(h) "High deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that exceed the high deductible.

(i) "Qualified medical expense" means an expense paid by the eligible individual for medical care described in Section 213(d) of the Internal Revenue Code of 1986.

Section 10-10. Application; authorized contributions.

(a) Beginning in taxable year 2011, each employer shall make available to each eligible individual a health savings account program, if that individual chooses to enroll in the program. An employer shall deposit \$2,750 annually into an eligible individual's health savings account. Unused funds in a health savings account shall become the property of the account

holder at the end of a taxable year.

(b) Beginning in taxable year 2011, an eligible individual may deposit contributions into a health savings account. The amount of deposit may not exceed the amount of the deductible for the policy.

Section 10-15. Use of funds.

(a) The trustee or custodian must use the funds held in a health savings account solely (i) for the purpose of paying the qualified medical expenses of the eligible individual or his or her dependents, (ii) to purchase a health coverage policy, certificate, or contract, or (iii) to pay for health insurance other than a Medicare supplemental policy for those who are Medicare eligible.

(b) Funds held in a health savings account may not be used to cover expenses of the eligible individual or his or her dependents that are otherwise covered, including, but not limited to, medical expense covered under an automobile insurance policy, worker's compensation insurance policy or self-insured plan, or another employer-funded health coverage policy, certificate, or contract.

ARTICLE 90.

AMENDATORY PROVISIONS

(20 ILCS 4045/Act rep.)

Public Act 097-0142

SB1555 Enrolled

LRB097 05655 RPM 45717 b

Section 90-10. The Health Care Justice Act is repealed.

ARTICLE 99.

EFFECTIVE DATE

Section 99. Effective date. This Act takes effect upon becoming law.